REMARKS

Reconsideration of the above-identified patent application in view of the amendment above and the remarks below is respectfully requested.

No claims have been canceled or added in this paper. Claims 5, 8, 12, 19, 24, 31 and 32 have been amended in this paper. Therefore, claims 1-5, 7-15 and 17-35 are pending and under active consideration.

Claims 5, 8, 12, 19, 24 and 31-32 stand rejected under 35 U.S.C. 112, second paragraph, "as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention." In support of the rejection, the Patent Office states the following:

> The limitations of "preferably", "is/are", "and/or" render the claims indefinite.
>
> Regarding claim 31, the claim language is not clear. The examiner interprets the claim to mean that the media inside the uptake container is contained by the uptake container.

Applicant respectfully traverses the subject rejection. Insofar as the subject rejection relates to the use of the terms "preferably," "is/are," and "and/or," Applicant notes that these terms are no longer recited. Insofar as the subject rejection relates to an alleged lack of clarify in the claim language of claim 31, Applicant respectfully disagrees. Claim 31 conveys that the media flexible in shape which are arranged inside the uptake container are fixed in space by use of fastening means. Applicant respectfully submits that this language is clear.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 1-5, 7-11, 13-15, 17, 20-22, and 24-35 stand rejected under 35 U.S.C. 102(b) "as being anticipated by Klopotek (US Patent 6,730,123; hereinafter Klopotek)." With respect to independent claims 1 and 35, the Patent Office states the following:

> Klopotek disclosed an artificial lens for an eye, which is characterized in that it has two or more media (optical fluid and ferro-fluid, column 3, lines 51-62) that are flexible in shape that come into direct contact with one another as lens elements (via membrane, column 3, line 58-62), in that the media that are flexible in shape contact on at least one interface and are disposed so that they can be displaced relative to one another, and in that the media that are flexible in shape are each formed as a liquid.

Applicant respectfully traverses the subject rejection.

Klopotek discloses an intraocular lens whose focusing performance can be adjusted after implantation in a patient's eye (col. 1, lines 46-50). Thus, Klopotek has some similarities to the present invention. However, despite these similarities, which are largely superficial, Klopotek describes a totally different technical approach to achieving its goal.

As is evident from Klopotek (see, for example, col. 1, lines 50-59, or col. 2, lines 8-14 and 28-29), the lens comprises an optical chamber, said optical chamber containing one, and **only one**, optical fluid. The optical chamber comprises at least one flexible area. If a pressure is applied to said optical fluid contained within said optical chamber, the curvature of the flexible area is changed.

Klopotek describes different approaches as to how pressure can be applied to said optical fluid. According to Klopotek, this is achieved by use of different types of pump devices.

One specific pump device which is described in Klopotek at col. 3, lines 47-62 (as cited by the Patent Office) is formed as a peristaltic micro-pump. This pump acts with the optical chamber. The optical chamber comprises a base portion and a cover portion. At least one of these portions

comprises a flexible area. The base portion is connected with a reservoir in order to transport the optical fluid into the optical chamber.

Separated by a membrane is a channel which is connected to a reservoir. A ferro-fluid material is contained inside this reservoir. However, this ferro-fluid material is part of the peristaltic micro-pump and functions as an actuator. If the ferro-fluid material is externally activated, a pressure is generated, said pressure being applied to the membrane. Thus, the membrane is deformed. The deformation of the membrane urges a specific amount of the ferro-fluid material to move between the reservoir and the optical chamber (see Klopotek at col. 3, line 62 to col. 4, line 7).

The constructional embodiment of this approach is shown in Figs. 1A and 1B of Klopotek and is described therein at col. 7, lines 20-38.

To summarize, Klopotek only discloses that an optical chamber which contains one optical fluid is provided. At least one portion of said optical chamber is shaped in a flexible manner. The curvature of this flexible portion can be varied by use of different amounts of optical fluid within said optical chamber. This variation of optical fluid inside the optical chamber is achieved by use of pump devices. One embodiment of a pump device comprises a ferro-fluid material, which is separated from said optical fluid **by use of a membrane**.

Therefore, Klopotek does not teach the use of two or more media which are flexible in shape and which come in direct contact with one another. This could be achieved without an additional membrane as mentioned by Klopotek only. By virtue of the additional membrane taught by Klopotek, both media would not be in **direct** contact with one another, but rather, would only be in **indirect** contact.

Furthermore, Klopotek does not disclose that both media which are flexible in shape contact on at least one interface. This can be achieved **only if there is no additional membrane between those media**.

Finally, Klopotek does not teach that both media flexible in shape are contained inside **one** optical chamber.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 12 and 14 stand rejected under 35 U.S.C. 103(a) "as being unpatentable over Klopotek USPN 6,730,123 'Klopotek' as applied to claims 1, 2, 18, 22 and 24 above, and further in view of Esch USPN 7,122,053 'Esch.'"

Applicant respectfully traverses the subject rejection. Claims 12 and 14 depend, directly or indirectly, from claim 1. Claim 1 is patentable over Klopotek for at least the reasons given above. Esch fails to cure all of the deficiencies of Klopotek with respect to claim 1. Therefore, based at least on their respective dependencies from claim 1, claims 12 and 14 are patentable over Klopotek and Esch.

Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

Claims 18-19 and 23 stand rejected "under 35 U.S.C. 102(b) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Klopotek USPN 6,730,123."

Applicant respectfully traverses the subject rejection. Claims 18-19 and 23 depend, directly or indirectly, from claim 1. Claim 1 is patentable over Klopotek for at least the reasons given above. Therefore, based at least on their respective dependencies from claim 1, claims 18-19 and 23 are patentable over Klopotek.

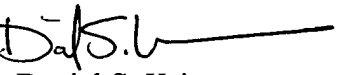
Accordingly, for at least the above reasons, the subject rejection should be withdrawn.

In conclusion, it is respectfully submitted that the present application is now in condition for allowance. Prompt and favorable action is earnestly solicited.

If there are any fees due in connection with the filing of this paper that are not accounted for, the Examiner is authorized to charge the fees to our Deposit Account No. 11-1755. If a fee is required for an extension of time under 37 C.F.R. 1.136 that is not accounted for already, such an extension of time is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Kriegsman & Kriegsman

By: 

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Dated: 3-30-11

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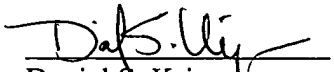

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